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JAMES H. McKENNEY,
Clerk.

SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, 1904.

No. 419.

THE TERRITORY OF NEW MEXICO EX REL. CALEDONIAN COAL COMPANY, APPELLANT,

vs.

BENJAMIN S. BAKER, ASSOCIATE JUSTICE OF THE SUPREME COURT OF THE TERRITORY OF NEW MEXICO AND JUDGE OF THE SECOND JUDICIAL DISTRICT COURT THEREOF, AND SAID SECOND JUDICIAL DISTRICT COURT, APPELLEES.

APPEAL FROM THE SUPREME COURT OF THE TERRITORY OF NEW MEXICO.

MOTION TO ADVANCE.

NEILL B. FIELD,
Counsel for Appellant.

JUDD & DETWEILER, PRINTERS, WASHINGTON, D. C. 13899

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MOTION TO ADVANCE.

Counsel for appellant submits a motion to advance this cause for hearing during the present term and at as early a day as the convenience of the court will permit.

No appearance has been entered in this court in behalf of appellees, but counsel who appeared in the court below has been duly notified of this motion.

STATEMENT.

The Caledonian Coal Company commenced in February, 1904, in the district court of the second judicial district of the Territory of New Mexico, sitting for the trial of causes arising under the Constitution and laws of the United States, an action at law for the recovery of damages for alleged violations of the provisions of the legislation of Congress commonly known as the interstate commerce law and the Sherman anti-trust law, against several corporations, including the Santa Fe Pacific Railroad Company, a corporation organized under the provisions of an act of Congress, and process therein was served on the president of said corporation. On the return day of the writ, the corporation, by its counsel, entered a special appearance and moved to quash the service upon the ground that the corporation was not "an inhabitant of" nor "found" within the said district, within the meaning of the acts under which the suit was brought, and the service was therefore invalid and conferred no jurisdiction of the person of the corporation upon the court. The court sustained the motion and quashed the service. Appellant thereupon applied to the supreme court of New Mexico for leave to file, and, upon leave granted, filed an application for a writ of mandamus to compel the court to take jurisdiction of the person of the said corporation and proceed to the adjudication of the cause. An answer was filed and a hearing had upon the pleadings and judgment was entered in favor of the appellees, and an appeal was in open court taken to this court. The result of this judgment is to prevent further proceed-

ings in the original cause for the reason that the cause cannot properly proceed to trial upon its merits until the Santa Fe Pacific Railroad Company is before the court, and the ruling precludes the possibility of effecting service of process on that company.

The appellant, being thus denied the remedy specifically provided by Congress for the redress of the wrongs complained of until this cause is disposed of by this court, respectfully asks that this cause, which is clearly a proceeding in aid of the appellate power of this court in the original cause, may be advanced under the rules and practice of this court.

NEILL B. FIELD,
Counsel for Appellant.

IN THE SUPREME COURT OF THE UNITED STATES, OCTOBER TERM, 1904.

THE TERRITORY OF NEW MEXICO *ex Rel.* CALEDONIAN COAL COMPANY, *Appellant*,
vs.
BENJAMIN S. BAKER, *Associate Justice, etc., Appellees.*
No. 419.

Neill B. Field, being first duly sworn, on his oath deposes and says that more than thirty days prior to the 12th day of December, 1904, he caused to be mailed to R. E. Twitchell, counsel for appellees in the court below, a notice of the application to advance the above-entitled cause and was afterwards told by Mr. Twitchell that the notice had been duly received.

NEILL B. FIELD.

Subscribed and sworn to before me by Neill B. Field this 1st day of December, 1904.

[SEAL.] JAMES D. MAHER,
Notary Public, District of Columbia.

[Endorsed:] File No. 19,519. Supreme Court U. S., October term, 1904. Term No. 419. The Territory of New Mexico *ex rel.* Caledonian Coal Co., app't, *vs.* Benjamin S. Baker, associate justice, &c. Motion to advance. Filed Dec'r 1, 1904.